(3)

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Single Bench

IN THE HIGH COURT OF JUDICATURE AT BILASPUR: C.G.

MISCELLANEOUS (FIRST) APPEAL NO. 233 OF 2004

MISCELLANEOUS APPEAL UNDER SECTION 27(3) OF THE C.G.PUBLIC TRUSTS ACT, 1951

Appellant:
Non-applicant no.1 Hanuman Singh S/o Bahadur Singh aged 59 years, R/o Surangdahara, Tahsil Bemetara, District Durg (C.G.)

VERSUS

Respondents :
1) Udey Singh S/o Chinta Singh, R/o Village Gidhwa,
2) Mohanlal S/o Jagannath Prasad, R/o Village Gidhwa,
3) Shivlal S/o Bhagbali, R/o Village Gidhwa,
4) Kiran Mishra S/o Keyur Bhushan, R/o Village Janta.

All R/o Tahsil Bemetara, District Durg (C.G.). **Applicants**

P. R No. 497/04
Presented by Shri Sanjay S. Agrawal
dated 19.2.04

5) Vishnudatt S/o Ramdulare Mishra R/o Village Dadi, Tahsil Bemetara, District Durg. **Non-applicant-2**

Claim in appeal for setting aside the order having the force of decree,

Fixed Court Fee, affixed at Rs.15/-

(As per the Article 1(f) of Schedule-II of the Court Fees Act)

XI-HC-22

(73)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

Retype

आदेश पत्रक

मामला क्रमांक M.A. No. 233 / 2004 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	27-10-2004 Shri Sanjay S.Agrawal, counsel for the appellant. Shri P.P. Sahu, counsel for respondents 1, 2 & 4. Heard. The respondent No.1 who is a trustee of Ram-Janki Mandir, Trust filed an application under Section 26 of the C.G. Public Trust Act (hereinafter referred to as " the Act") before the Registrar complaining therein that the appellant who is a Manager-cum-Trustee is not managing the affairs of the temple and its properties properly and in fact utilizing the income for his personal purposes. It is interesting to note that this complaint was given way back on 13.08.1986. Even before the Registrar, it can well be said that the appellant adopted delaying tactics and even after eleven adjournments no written statement was filed so also the accounts. When the Registrar ultimately closed the inquiry, the appellant suddenly woke up and approached the higher forum with a grievance that he was not given a proper opportunity to file written statement. Thereafter, the District Judge, in the interest of justice thought it fit to give one more opportunity to the appellant to file written statement and in that view of the matter directed the Registrar accordingly. Even thereafter, no written statement was filed by the appellant. In fact, the priest of the temple deposed before the Registrar that the salary was not paid to him by the appellant for several years. The proceedings which started in the year 1986 ended on 21.07.2000 and the Registrar referred the matter to the District Court as per Section 26 (2) of the Act.	

[पीछे देखिये

(24)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक M.A No. 233/2004 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

It can be seen from the order sheets of the District Court that even before the District Court the appellant was trying to delay the matter at every stage. In fact, on 05.04.2002 as the appellant failed to adduce the evidence, his evidence was closed. Not only the appellant but also his counsel were well aware about the closing of evidence since they have signed the order sheets. Even thereafter, he kept quiet comfortably and ultimately the District Judge passed the orders in the year 2004. Now the appellant filed the present appeal against the final order passed by the District Judge questioning the correctness of the same. The learned counsel for the appellant would only argue one point namely that his client was not given proper opportunity by the District Judge to examine his witnesses.

As already pointed out, the proceedings started way back in the year 1986 and the appellant was rather adamant in not filing the written statement before the Registrar so also the accounts. Even learned counsel for the appellant is not disputing that the Court closed his evidence on 05.04.2002 and that his client was well aware about the same. However, the appellant did not choose to question the correctness of the order of the District Judge in closing his evidence till final order came to be passed i.e. for two years. In the normal circumstances, this Court would have accepted his submission that the District Judge ought to have given him one more opportunity to let in evidence, but from the very conduct of the appellant namely even after giving twelve opportunities by the Registrar, he was rather adamant in not filing the written statement so also the accounts, this Court is of the view that the appellant on

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक M:A. 233/04 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	05.04.2002 deliberately did not examine the witnesses. It is not as if on that day he filed any application before the District Judge seeking time to examine himself or to examine his witnesses. The Courts shall not encourage the litigants who are trying to drag on the proceedings and make the proceedings of the Courts a mockery. In this view of the matter, the appeal is dismissed with costs of Rs.1,000/- payable to Ram-Janki Mandir Trust. **Sd/-** **Chief Justice**	

Subby

[पीछे देखिये